



***IN THE UNITED STATES PATENT AND TRADEMARK OFFICE***

Applicant: Joel S. Greenberger

Title: PROTECTION FROM IONIZING  
IRRADIATION OR  
CHEMOTHERAPEUTIC DRUG  
DAMAGE BY *IN VIVO* GENE  
THERAPY

Appl. No.: 08/907,041

Filing Date: 08/06/1997

Examiner: S. Chen

Art Unit: 1632

**TERMINAL DISCLAIMER**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

Your Petitioner, University of Pittsburgh, having its principal place of business at 911 William Pitt Union, Pittsburgh, Pennsylvania 15260, represents that it is the owner of the entire right, title, and interest in and to U.S. Patent Application No. 08/907,041, filed August 6, 1997, which is a continuation of U.S. Patent Application No. 08/484,836, filed June 7, 1995 (now abandoned), and a continuation of U.S. Application No. 08/136,079, filed October 15, 1993 (now U.S. Patent No. 5,599,712), by virtue of an Assignment filed and recorded on March 16, 1994, on Reel/Frame 6883/0407, in the United States Patent and Trademark Office, a copy of which is attached hereto as APPENDIX A, and by virtue of an Assignment filed and recorded on September 25, 1995, on Reel/Frame 7697/0730, in the United States Patent and Trademark Office, a copy of which is attached hereto as APPENDIX B. Further, your Petitioner represents that it is also the owner of U.S. Patent No. 6,221,848, which issued on U.S. Patent Application

No. 09/075,532, filed May 11, 1998, by virtue of an Assignment filed and recorded on July 20, 1998, on Reel/Frame 9435/0218, in the United States Patent and Trademark Office, a copy of which is attached hereto as APPENDIX C.

Your Petitioner, University of Pittsburgh, hereby disclaims the terminal part of the term of any patent granted on the above identified patent application which would extend beyond the full statutory term, as shortened by any terminal disclaimer, of U.S. Patent 6,221,848, and hereby agrees that any patent so granted on the above identified patent application shall be enforceable only for and during such period that the legal title to U.S. Patent 6,221,848 shall be the same as the legal title to any patent granted on the above identified patent application, this agreement to run with any patent granted on the above identified patent application and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim any terminal part of any patent granted on the above identified patent application, prior to the full statutory term of U.S. Patent 6,221,848 as defined in 35 U.S.C. §§154-156 and 173, in the event that U.S. Patent 6,221,848 expires for failure to pay a maintenance fee, is held unenforceable or is found invalid in a final judgment by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321(a), has all claims canceled by a reexamination certificate or as a result of an interference proceeding, or is otherwise not deemed to provide the rights conveyed by 35 USC §154, prior to the full statutory term of U.S. Patent 6,221,848 as defined in 35 USC §§154-156 and 173, except for the separation of legal title stated above. Further, Petitioner does not disclaim any terminal part of a patent granted on the above identified patent application that would extend beyond the present termination of U.S. Patent 6,221,848, in the event that such present term is extended by virtue of compliance with the conditions for term extension of any present or future patent term extension provisions of the patent law, including but not limited to 35 U.S.C. §§155, 155A or 156, and without waiving Petitioner's right to extend the term of a patent granted on the above identified patent application to the extent provided by law.

The undersigned, being the Attorney of Record for the above identified patent application, and duly authorized to act on behalf of Petitioner, certifies that he has reviewed the Assignments attached as APPENDICES A and B, and to the best of his knowledge and belief, legal title to the above identified patent application and U.S. Patent 6,221,848 rests with Petitioner, University of Pittsburgh. The undersigned declares that all statements made herein of their own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-identified application or any patent issuing therefrom.

Respectfully submitted,

Date 2 November 2004

By 

FOLEY & LARDNER LLP

Customer Number: 22428

Telephone: (202) 672-5404

Facsimile: (202) 672-5399

Stephen A. Bent

Attorney for Applicant

Registration No. 29,768